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ANNOUNCEMENT PRODUCTION MACHINERY AND EQUIPMENT

NOTE FROM THE HONOURABLE W. DARCY McKEOUGH TREASURER OF ONTARIO ON THE PRODUCTION MACHINERY AND EQUIPMENT INCENTIVE

My November 1976 Statement entitled "Ontario's Economic Strategy for 1977", introduced a new long-term production machinery exemption to The Retail Sales Tax Act, to replace the temporary program which expired at the end of 1976. The new exemption is designed to provide maximum economic stimulation to the private sector within a financial constraint of \$160 million per annum in the initial years. This generous incentive allows Ontario manufacturers to acquire free of tax a wide range of equipment used directly in the production process. To simplify the administrative aspects of the program, it has been the Government's intention to parallel, as far as possible, federal practice in this area.

Since its implementation on January 1, the eligible exemptions have been applied on a basis which quite closely parallels the federal legislation. It is now apparent that continuation of this broader administrative interpretation would push the cost of the program far beyond the \$160 million that had been budgeted. This development would not be consistent with the Province's deficit reduction strategy. Strenuous efforts are being continued by the Government to restrain its expenditure and to free up resources for the private sector. Consequently, the cost of the exemption from retail sales tax for production machinery and equipment must be constrained within the allotted \$160 million.

Effective August 8, therefore, the incentive will be administered on a somewhat tighter but still very generous basis. The Regulation giving effect to the exemption allows for the tax-free acquisition after August 7 of all machinery and equipment which, by its specific function, alters the goods in process, as well as a wide variety of mining, logging, waste removal and pollution control equipment and other types of machinery.

I recognize that some businesses will have made purchases and/or commitments prior to August 8, 1977, without being aware of the final form of the Regulation. Therefore, the first part of the Regulation has been designed to cover the January 1 to August 7 period on a more generous basis to ensure that purchasers are treated in the most equitable manner possible. As well, it will apply to qualifying machinery and equipment ordered before August 8 for delivery before January 1, 1978.

August 1, 1977.

In November 1976, the Retail Sales Tax Act was amended to exempt certain classes of production machinery and equipment, effective January 1, 1977. This Bulletin outlines the provisions of the Regulation giving effect to these exemptions, as follows:

- EXCLUSIONS FROM THE EXEMPTION – JANUARY 1, 1977 TO AUGUST 7, 1977.
- EXCLUSIONS FROM THE EXEMPTION – EFFECTIVE AUGUST 8, 1977.
- PERSONS OR CORPORATIONS NOT ENTITLED TO THE TAX EXEMPTION – EFFECTIVE JANUARY 1, 1977.
- FULL TEXT OF NEW EXEMPTION FOR PRODUCTION MACHINERY OR EQUIPMENT – EFFECTIVE JANUARY 1, 1977.
- TRANSITIONAL PROVISIONS – PURCHASE ORDERS AND FIXED PRICE CONTRACTS FOR PRODUCTION MACHINERY OR EQUIPMENT.
- REBATE OF TAX ON PARTS USED IN THE MODIFICATION OF PRODUCTION MACHINERY OR EQUIPMENT.

EXCLUSIONS FROM THE EXEMPTION FOR PRODUCTION MACHINERY OR EQUIPMENT

January 1, 1977 to August 7, 1977

EXCLUSIONS (Regulation 784)

- (a) *machinery or equipment that is used to test or inspect goods prior to the commencement of a manufacturing or production process or after the completion of a manufacturing or production process;*
- (b) *parts for the repair, maintenance or modification of machinery or equipment;*
- (c) *tools and equipment used to repair, maintain, service or modify machinery or equipment;*
- (d) *machinery or equipment used by a manufacturer or producer to package goods manufactured or produced by others;*
- (e) *footings and foundations for machinery or equipment;*
- (f) *structures or equipment such as catwalks, platforms and walkways used to give access to machinery or equipment for the purpose of installing, operating, maintaining or repairing such machinery or equipment;*
- (g) *material-handling machinery or equipment (including cranes, conveyors, fork lift trucks and pallets) to which subparagraph a or g of paragraph 38a of subsection 1 of section 5 of the Act applies and that is used primarily to move goods,*
 - (i) *to locations where raw materials are stored or stockpiled,*
 - (ii) *from one storage area to another storage area, or*
 - (iii) *from any location or warehouse for the storage of finished goods to any vehicle, equipment or other means of transportation from such location;*
- (h) *safety devices, safety equipment and safety clothing;*

COMMENTARY

Quality control items are taxable when used off-line, for example, in testing materials coming into the plant such as steel, chemicals, wood or components produced elsewhere, as well as finished goods.

Devices and equipment used to test goods in process on the production line are exempt. Similarly, production control devices on the line are exempt.

Such parts are taxable whether for an exempt or taxable machine. A part is something that in itself does not produce or create tangible personal property but is a component of a machine that does, for example, a motor powering a production machine is a "part" for that machine. Note that these are replacement parts. Parts used in the original manufacture of exempt production machinery are exempt.

All such tools are taxable. However, tools and equipment used in production, such as tools used in assembling goods in process, are exempt.

Machinery and equipment used by a manufacturer in his factory to package his own goods is exempt.

Excluded from exemption are the actual footings and foundations on which the machinery or equipment and/or supports rest. They are usually "in ground" or part of "in ground" installations or part of a structure. Where a machine is set on supports which are clearly part of the machine as distinct from the building, structure, footing or foundation, the supports can be considered as part of the machine and are exempt if the machine is exempt.

Such structures or equipment are, as noted, taxable. However, when necessary to provide worker access to assemble or fabricate the goods in process, they are exempt.

While the items used in material handling as detailed are taxable, machinery and equipment is exempt when used primarily to move tangible personal property

- a) directly into the manufacturing or production process or,
- b) directly through the manufacturing or production process or,
- c) directly from the manufacturing or production process.

Included in these categories are various types of piping serving the same purposes.

All safety devices, safety equipment and safety clothing are taxable including such things as fire extinguishers, ear plugs, gloves, coveralls, safety goggles, fencing, railings, signs and machine guards. If an exempt machine is purchased complete with safety devices built in, the entire machine is exempt.

- (i) *geophysical surveying precision instruments and geophysical surveying equipment for use in prospecting for, or in the exploration for, or discovery or development of, petroleum, natural gas, water wells and minerals or for geophysical studies for engineering projects;*
- (j) *plans and drawings and reproductions thereof; and*
- (k) *aircraft that are not balloons to which subparagraph e of paragraph 38a of subsection 1 of section 5 of the Act applies, and vessels or boats that do not exceed 500 tons gross.*

This clause excludes from exemption all surveying precision instruments and equipment.

Plans and drawings and reproductions are all taxable including those for product, plant layout or machines.

Boats and vessels under 500 tons gross such as tenders and work boats and aircraft are taxable when used by manufacturers or producers.

EXCLUSIONS FROM THE EXEMPTION FOR PRODUCTION MACHINERY OR EQUIPMENT Effective August 8, 1977

EXCLUSIONS (Regulation 784)

- (a) *machinery or equipment that is used by a manufacturer or producer to test or inspect his raw materials, goods in process or finished goods;*
- (b) *parts for the repair, maintenance or modification of machinery or equipment;*
- (c) *tools and equipment used to repair, maintain, service or modify machinery or equipment;*
- (d) *machinery or equipment used by a manufacturer or producer to package goods manufactured or produced by others, and all machinery or equipment for off-line packaging or crating of goods;*
- (e) *footings, foundations and supports for machinery or equipment;*
- (f) *structures or equipment, such as catwalks, platforms or walkways, used to give access to machinery or equipment or access to goods being manufactured or produced;*
- (g) *material-handling machinery or equipment (including cranes, conveyors, fork lift trucks, pallets and racks) to which subparagraph a or g of paragraph 38a of subsection 1 of section 5 of the Act applies;*
- (h) *safety devices, safety equipment and safety clothing;*
- (i) *geophysical surveying precision instruments and geophysical surveying equipment for use in prospecting for, or in the exploration for, or discovery or development of, petroleum, natural gas, water wells and minerals or for geophysical studies for engineering projects;*
- (j) *plans and drawings and reproductions thereof;*

COMMENTARY

All such machinery or equipment is taxable wherever used.
(See also (l) below concerning production control)

This exclusion is identical to that described in (b) above for the period January 1, 1977 to August 7, 1977 inclusive.

This exclusion is identical to that described in (c) above for the period January 1, 1977 to August 7, 1977 inclusive.

All off-line packaging and crating equipment whether used to package goods of own manufacture or goods manufactured by others is taxable. Packaging equipment used on the production line, such as in canning, bottling, labelling, boxing, is exempt.

All in-ground and above-ground footings, foundations and supports for machinery, equipment and structures are taxable.

All catwalks, platforms and walkways are taxable whether used for repair and maintenance or worker access to goods being manufactured or produced.

This excludes from the exemption such items as fork lift trucks, cranes, conveyors, storage tanks, inter-connecting piping, computers, bins, racks, freight elevators and items which do not change the product during its manufacture.

This exclusion is identical to that described in (h) above for the period January 1, 1977 to August 7, 1977.

This exclusion is identical to that described in (i) above for the period January 1, 1977 to August 7, 1977.

This exclusion is identical to that described in (j) above for the period January 1, 1977 to August 7, 1977 inclusive.

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| <p>(k) <i>aircraft that are not balloons to which subparagraph e of paragraph 38a of subsection 1 of section 5 of the Act applies, and vessels or boats that do not exceed 500 tons gross.</i></p> <p>(l) <i>devices and equipment used to control a manufacturing or production process;</i></p> <p>(m) <i>machinery or equipment used in the premises of a manufacturer or producer to control the temperature of raw materials or of finished goods;</i></p> <p>(n) <i>air-conditioning machinery or equipment used in controlling the temperature of machinery or equipment or of the manufacturing or production premises;</i></p> <p>(o) <i>tanks, bins, hoppers, silos or other facilities for holding or containing goods or materials and in which no manufacturing or production process is taking place, if such tanks, bins, hoppers, silos or other facilities are machinery or equipment to which subparagraph a or g of paragraph 38a of subsection 1 of section 5 of the Act applies;</i></p> <p>(p) <i>rail and track materials;</i></p> <p>(q) <i>electrical substations, transformers or transmission lines, and the structures or equipment ancillary to or associated with any of them;</i></p> <p>(r) <i>steam plants and steam lines, air compressors and air lines, water purification or treatment plants and water lines, and ducts for heating or air-conditioning;</i></p> <p>(s) <i>any vehicle for which a permit issued under subsection 3 of section 6 of The Highway Traffic Act is required or in force; and</i></p> <p>(t) <i>machinery or equipment to which subparagraph a of paragraph 38a of subsection 1 of section 5 of the Act applies and that does not, by its specific function, alter the goods in process.</i></p> | <p>This exclusion is identical to that described in (k) above for the period January 1, 1977 to August 7, 1977.</p> <p>All production control devices and equipment are taxable wherever used, for example, control panels (including instrumentation) and computers.
(See also (a) above concerning product quality control)</p> <p>This clause excludes from the exemption machinery and equipment used to control the temperature of raw materials or finished goods. Machinery and equipment used for cooking or freezing materials in the production process is exempt.</p> <p>All such types of air conditioning equipment are taxable.</p> <p>Tanks in which a process is taking place are exempt.</p> <p>All rail and track materials including ties, spikes, frogs, switches and similar materials are taxable.</p> <p>All machinery, equipment and structures used in the supply of power are taxable.</p> <p>All such plants and lines are taxable.</p> <p>This excludes from the exemption such items as computers, bins, racks, freight elevators, fork lift trucks, cranes, conveyors, storage tanks and all other items which do not alter the product during its manufacture.</p> |
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PERSONS OR CORPORATIONS NOT ENTITLED TO THE TAX EXEMPTION

Effective January 1, 1977

For the purposes of paragraph 38a of subsection 1 of section 5 of the Act, the following persons or corporations are prescribed as not entitled to the exemption conferred by that paragraph:

No exemption is available under paragraph 38a of subsection 1 of section 5 of the Act to the persons and corporations described.

- (a) *Her Majesty in right of Ontario and all servants or agents of the Crown in right of Ontario with respect to machinery or equipment purchased by them as servants or agents of the Crown;*
- (b) *the corporation of a municipality, including a district, metropolitan or regional municipal corporation;*



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- (c) *a local board, as defined in paragraph 30 of section 1 of Regulation 785 of Revised Regulations of Ontario, 1970; and*
- (d) *any corporation all of the directors of which are appointed by the Lieutenant Governor in Council; and*
- (e) *contractors or subcontractors with respect to their consumption of machinery or equipment to which paragraph 38a of subsection 1 of section 5 of the Act applies consumed for the purpose of performing a contract or subcontract for the provision or installation of such machinery or equipment for any person or corporation to whom the preceding clauses of this subsection apply.*

FULL TEXT OF NEW EXEMPTION FOR PRODUCTION MACHINERY OR EQUIPMENT Effective January 1, 1977

Act 5(1)38a

COMMENTARY

38a. *machinery or equipment purchased for the use of a manufacturer, or for the use of a producer, if such machinery or equipment is,*

(a) *to be used directly in the manufacture or production of tangible personal property, in the development by such manufacturer or producer of goods for his manufacture or production, or in the development by such manufacturer or producer of manufacturing or production processes for his own use;*

Machinery or equipment used to alter the product during manufacture is exempt. Exclusions from the exemption are detailed in the Regulation and commentary above.

(b) *to be used by such manufacturer or producer directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations;*

Pollutants, as outlined in this clause, must be directly attributable to the manufacture or production of goods for the machinery or equipment to qualify for exemption.

(c) *to be used by such manufacturer or producer to carry away refuse or waste from machinery or equipment used directly in the manufacture or production of tangible personal property, or to be used to exhaust or expel dust or noxious fumes produced in the manufacturing or producing operations of such manufacturer or producer;*

This clause exempts all equipment, except licensed vehicles, used to carry away refuse or waste from production machinery or equipment. It also exempts machinery and equipment used to exhaust dust or noxious fumes produced in the manufacturing or producing operations of a manufacturer or producer but does not include such things as smoke stacks.

(d) *a gasoline-powered or diesel-powered self-propelled truck mounted on rubber-tired wheels that is not operated on the highway and that is used exclusively at mines or quarries;*

This exemption is restricted to unlicensed trucks as distinct from buses, passenger cars, station wagons, jeeps and like vehicles. The unlicensed trucks must be used exclusively on the mining property.

(e) *a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier;*

This clause exempts all types of industrial tractors such as skidders, bulldozers and similar vehicles used as specified. Unlicensed trucks used exclusively in logging operations are exempt. All wire rope, with or without fittings, and blocks and tackle used exclusively in logging operations are exempt. Also exempt is machinery such as chain saws, debarkers and tree harvesters. Jeeps, buses, automobiles, station wagons, pick up trucks, boats and motors, snowmobiles, and aircraft are taxable.

- (f) pipes, tubing, casings, fittings, couplings, thread protectors and nipples therefor, and drilling pipe that are commonly known as "oil country goods" and are used in connection with natural gas or oil wells; or
- (g) machinery, equipment and apparatus, including wire rope, drilling bits, drilling mud and seismic shot-hole casing, to be used in the exploration for, or in the discovery or development of, petroleum, natural gas or minerals,

but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

This exemption is available only in connection with gas or oil wells and is not extended to water wells.

This exemption does not include geophysical surveying precision instruments and geophysical surveying equipment nor is it extended to machinery and equipment used in connection with water wells.

The classes of machinery or equipment and persons to be excluded from the exemption for production machinery or equipment are described in the above Regulations.

TRANSITIONAL PROVISIONS – PURCHASE ORDERS AND FIXED PRICE CONTRACTS FOR PRODUCTION MACHINERY OR EQUIPMENT

Before August 8, 1977 some businesses will have made commitments for the purchase of production machinery either for use in their own operations or in the performance of a contract to supply and install production machinery for others.

To simplify the change in exemption, relief from tax will be provided in these circumstances as follows:

- (i) Where a written order was placed between November 23, 1976 and August 8, 1977 for production machinery or equipment exempt up to August 7, 1977, and delivery takes place before January 1, 1978 the purchase will not be subject to tax.
- (ii) Where a contractor entered into an irrevocable fixed-price or lump sum contract with a manufacturer between November 23, 1976 and August 8, 1977 for the supply and installation of production machinery or equipment which was exempt up to August 7, 1977, the tax may be rebated. A claim for rebate of such tax paid must be submitted by the contractor within two years of the date of payment of the tax.

REBATE OF TAX ON PARTS USED IN THE MODIFICATION OF PRODUCTION MACHINERY OR EQUIPMENT

Tax paid on parts used in the modification of production machinery or equipment exempt at Act 5(1) 38a(a) may be rebated if the modifications increase the unit's output or capacity beyond the original specified output rating by at least 25%. The rebate application must be submitted within two years of payment of the tax.

FOR FURTHER INFORMATION CONSULT THE DISTRICT OFFICE IN YOUR AREA,
AS LISTED BELOW:

BELLEVILLE K8N 1E3	208 Dundas Street East 962-9108	ORILLIA L3V 6K5	19 Front Street North P.O. Box 670 326-3519	TORONTO M4P 1H6	2300 Yonge St., 10th Floor 487-7161
HAMILTON L8P 1B4	361 King Street West 528-8393	OTTAWA K1Z 7L7	1419 Carling Avenue Hampton Park Plaza 728-5887	WELLAND L3B 3Z7	76 Division Street 732-1318 (in St. Catharines and Niagara Falls, call 688-1360 or 688-1368)
KITCHENER N2M 1N2	449 Belmont Ave. W. 744-6318	SUDBURY P3A 1Z7	1536 LaSalle Blvd. 674-3151	WINDSOR N9A 6V9	250 Windsor Ave., 252-4404
LONDON N6C 4P4	310 Wellington Rd. 433-4033	THUNDER BAY P7C 5G6	435 James Street South P.O. Box 5000 Ontario Government Bldg. 475-1681		
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